

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

**FILED**

JAN 21 2014

Clerk, U.S. District Court  
District Of Montana  
Helena

LARRY REINLASODER,

Plaintiff,

No. CV 12-107-BLG-SEH

vs.

**ORDER**

CITY OF COLSTRIP, and MAYOR  
ROSE HANSER, in her Individual and  
Official Capacity,

Defendants.

On November 14, 2013, Magistrate Judge Carolyn S. Ostby issued her Findings and Recommendation directed to Defendants' Motion for Partial Summary Judgment.<sup>1</sup> Objections were filed by Plaintiff on November 27, 2013. A response to the objections was filed on December 11, 2013.

The crux of Plaintiff's objections are rooted in the assertion that the matter should be referred back to the Magistrate Judge to consider material in a deposition of Mercedes Kroll taken some four months after the motion was submitted for decision. The objections, on the record, are not well-taken.

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<sup>1</sup> Doc. 21.

The following timeline is of significance:

1. Conduct of discovery became available on November 29, 2012.
2. Defendant moved for summary judgment with supporting documents on March 28, 2013.
3. Response papers were filed May 29, 2013.
4. The motion was submitted for ruling with the filing of Defendant's reply brief on June 12, 2013.
5. The Kroll deposition was taken October 4, 2013.

If Plaintiff considered the Kroll deposition important to the submitted motion, he had more than adequate time to submit it before the Findings and Recommendation were entered. Over four months elapsed after discovery opened before the motion was filed. An additional two months passed before briefing of the motion was complete. Four more months went by before the deposition in question was taken. Still more time passed before the findings were entered.

Plaintiff did absolutely nothing during the entire period described above to present what is now said to be significant information to the Court. Such dilatory conduct, on the record, is without justification or excuse, finds no favor in this Court, does not move the Court to exercise its discretion favorably for Plaintiff, and will not be rewarded.

The Court specifically declines to exercise its discretion to either give consideration to the October 2013 deposition or to remand the motion to the Magistrate with instructions that she do so. *See United States V. Howell*, 231 F.3d 615, 621-22 (9th Cir. 2000), 14 JAMES WM. MOORE, ET AL., MOORE'S FEDERAL PRACTICE, § 72.11[1][b] (3d ed. 2012), 12 Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure*, § 3070.2 (2d ed.).

Taking into account that the Court has declined to reopen the record or to order that such be done, all findings and recommendations to which objections were made have been reviewed *de novo*.

Upon *de novo* review of the record, I find no clear error in Judge Ostby's Findings and Recommendation and adopt them in full.

ORDERED:

Defendants' Motion for Partial Summary Judgment<sup>2</sup> is GRANTED.

Cause of Action III in the Amended Complaint is DISMISSED.

DATED this 21<sup>st</sup> day of January, 2014.

  
SAM E. HADDON  
United States District Judge

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<sup>2</sup> Doc. 21.